DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. Claims 32, 38-40, 43-45, 47, 48, 54-57, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kollias et al.'059 (previously cited).

See the rejection set forth in paragraph 4 of the Office Action mailed out 16 December 2008.

3. Claims 34, 35, 62 and 64-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kollias et al.'059 further in view of Anderson et al.'127 (previously cited).

See the rejection set forth in paragraph 6 of the Office Action mailed out 16 December 2008.

Response to Arguments

4. Applicant's arguments filed 15 June 2009 have been fully considered but they are not persuasive with regard to the rejections made in view of Kollias and Kollias further in view of Anderson. On page 13 of the Remarks, Applicant argues that it would not have been obvious over Kollias to measure fluorescence received from directly irradiated portions of the skin surface since the method of Kollias is primarily to measure blood glucose content and immediately below the skin surface the blood content is relatively small. Examiner points out that Kollias discloses that its method is capable of measuring advanced glycation end products by measuring the fluorescence received from irradiated portions of the skin surface (targets in the dermal matrix, in the epidermal matrix, or in cells or immediate vicinity of cells associated with either the dermis or epidermis as discussed in col. 4, lines 19-30). It is therefore improper for the Applicant to argue that it would not be obvious over Kollias to measure fluorescence

received from directly irradiated portions of the skin surface due to the low blood content level below the skin surface because the advanced glycation end product measurement method of Kollias is not concerned with the blood content below the skin. It uses fluorescence measurements from targets in the skin surface to determine the advanced glycation end products. For these reasons, it would have been obvious over Kollias to measure fluorescence received from the irradiated portions of the skin surface and the combination of Kollias further in view of Anderson is proper. Applicant further argues on page 13 of the Remarks that Kollias in view of Anderson provides a method wherein fluorescent radiation is received from the entire irradiated skin surface. Examiner notes that the claim does not recite that the fluorescent radiation is received from only a portion of the irradiated skin tissue. It recites that the fluorescent radiation is received from a portion of the irradiated skin tissue only – as in fluorescent radiation is not received from portions of the skin tissue that were not irradiated. As the claim is written, Kollias in view of Anderson reads on the claim because measured fluorescent radiation is received from multiple portions of only the irradiated skin surface. Applicant argues on page 15 of the Remarks that it would not have been obvious over Kollias to provide that the fluorescence is received from a directly irradiated surface area larger than $1cm^2$. Examiner notes that claims 32 and 47 recite that the area is at least $1cm^2$, which includes $1cm^2$, and that Kollias explicitly recites that the irradiation area of the skin may be less than about $1cm^2$, which includes $1cm^2$, and thus reads on the claims. In disclosing "about $1cm^2$", Kollias inherently includes values slightly above $1cm^2$, which reads on the skin irradiation size limitation set forth in claims 32 and 47. For these reasons, the rejection of the claims based on Kollias and Kollias further in view of Anderson are maintained. Applicant's arguments set forth on pages 15-16 of the Remarks in regard to the rejection of claims in view of Anderson are persuasive and therefore the rejection of claims in view of Anderson have been withdrawn.

Allowable Subject Matter

5. Claims 69-72 are allowed for the reasons of record.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ETSUB D. BERHANU whose telephone number is (571)272-6563. The examiner can normally be reached on Monday - Friday (7:00 - 3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric F Winakur/
Primary Examiner, Art Unit 3768

EDB